

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ROLAND PRICE,

Plaintiff,

v.

Case No. 09-C-220

GREGORY HEYRMAN,

Defendant.

ORDER DENYING PAYMENT FROM RELEASE ACCOUNT

Plaintiff Roland Price is a prisoner who commenced a civil rights claim against prison officials and paid his initial partial filing fee pursuant to the Prison Litigation Reform Act ("PLRA"), 28 U.S.C. § 1915(b). The action was dismissed for failure to state a claim on October 20, 2009. Price's appeal from that order was dismissed on March 23, 2010, after he failed to pay the filing fee and was denied leave to appeal *in forma pauperis* by both this Court and the Seventh Circuit Court of Appeals. *Price v. Heyrman*, No. 09-3645 (7th Cir. Feb. 2, 2010).

On April 1, 2011 Price asked this Court to order that the balance of his appeal filing fee be paid from his release account (Dkt. 84), a request the Court denied on April 4, 2011. (Dkt. 86.) On June 7, 2011 Price filed yet another motion to have his filing fee paid out of his release account. (Dkt. 88.) Price's motion will be denied for the same reasons set forth in this Court's April 4, 2011 Order.

As explained in that Order, a release account is a restricted account maintained by the Wisconsin Department of Corrections to be used upon the prisoner's release from custody upon

completion of his sentence. Wis. Adm. Code § DOC 309.466. Although the Court can order disbursement from the Release Account for payment of the initial partial filing fee, the PLRA does not require the court to invade that account for payment of the balance. *See* 28 U.S.C. § 1915(b). The balance of payments, after the initial payment, is to equal “twenty percent of the preceding month’s income credited to the prisoner’s account.” 28 U.S.C. § 1915(b)(2). “Nothing in this language can be interpreted as congressional intent that prisoners deplete savings or release account balances in order to pay off their filing fee debts.” *Carter v. Bennett*, 399 F. Supp. 2d 936 (W.D. Wis. 2005). Given the rationale for segregating funds into a release account, and absent federal statutory authority compelling such a result, I decline to order the balance of plaintiff’s fee to be paid from such account. Accordingly, the motion is **DENIED**.

SO ORDERED this 15th day of June, 2011.

s/ William C. Griesbach

WILLIAM C. GRIESBACH
United States District Judge